

September 15, 2006

Patrick Morris
State Water Resources Control Board
Central Valley Region
11020 Sun Center Drive, No. 200
Rancho Cordova, CA 95670

Dear Mr. Morris:

Thank you for calling upon the Delta Mercury TMDL Collaborative (Collaborative), facilitated by the Delta Protection Commission, to provide a forum for a presentation on the Mercury TMDL by Regional Water Quality Control Board staff on August 24, 2006.

While the Collaborative will be formally submitting comments on the Draft Basin Plan Amendment and providing specific recommendations for changes to currently proposed Plan language, the workshop has provided an opportunity to submit the following input relative to the TMDL development process.

- Data and studies supporting the TMDL for Methylmercury Staff Report (released June 2006) should be provided to those scientists solicited by the Regional Board to review that staff report and the Draft Basin Plan Amendment report released in June 2006.
- Data supporting the studies should be provided to all reviewers that have requested such studies at public presentations, workshops, or through direct requests to Regional Board staff, including the Collaborative.
- Following is a list of planning and program implementation efforts currently underway in the Delta that should be taken into consideration in the development of the Delta Methylmercury TMDL.

State Delta Vision Process

The Delta Vision Process is a broader strategic planning process focusing on the development of the future of the Delta (including discussion of its future configuration and beneficial uses).

Contact: Rod Meade, consultant to the Resources Agency
Rmeade@calwater.ca.gov

Delta Risk Management Strategy (DRMS)

AB 1200 (CWC Section 139.2 et seq.) requires that DWR and DFG evaluate the potential impacts on water supplies derived from the Delta based on 50-, 100-, and 200-year projections for each of the following possible impacts: subsidence, earthquakes, floods, climate change & sea level rise, or a combination of the above. The DRMS study will provide the majority of this required information. The report is due to the Legislature no later than January 1, 2008.

Contact: Ralph Sveditch, Department of Water Resources.
Drms@water.ca.gov; (916) 651-7020

Delta Regional Ecosystem Restoration Implementation Plan (DRERIP)

The Department of Fish & Game is implementing the process for development of a regional ecosystem restoration plan for the Delta, consistent with the CALFED program.

Contact: Brad Burkholder, Department of Fish and Game
Bburkholder@delta.dfg.ca.gov; (209) 948-7800

Delta Long-Term Management Strategy (LTMS)

This strategy addressing dredging and the reuse of dredge material for infrastructure improvements in the Delta is largely fashioned after the successful San Francisco Bay LTMS.

Contact: Al Paniccia, U.S. Army Corps of Engineers
Al.Paniccia@usace.army.mil

Bay-Delta Conservation Plan

Planning is underway to develop a Delta-wide aquatic conservation plan.

Contact: Cindy Darling, CA Bay-Delta Authority
Darling@calwater.ca.gov; (916) 445-0977

State Parks Central Valley Vision

The recently-adopted Plan covers potential implementation of parks and recreational facilities in the Delta.

Contact: Nina Gordon, Department of Parks and Recreation
Ngordon@parks.ca.gov; (916) 653-9901

- The Collaborative requests copies of all comments (formally and informally) provided to the Regional Board to date on the staff reports released in June 2006. Please send this information to: Lori Clamurro, Delta Protection Commission, P.O. Box 530, Walnut Grove, CA 95690 (or electronically to loridpc@citlink.net).

Thank you for the opportunity to provide you with this input in follow-up to the discussion at the workshop. The Collaborative will continue to be involved in the process for development of an effective Mercury TMDL program for the Delta.

Sincerely,

Linda Fiack, Executive Director, Delta Protection Commission
On behalf of the Delta Mercury TMDL Collaborative

Cc: Delta Mercury TMDL Collaborative

March 30, 2006

Robert Schneider, Chairman
State Water Resources Control Board
Central Valley Region
11020 Sun Center Drive, No. 200
Rancho Cordova, CA 95670

Dear Chairman Schneider:

SUBJECT: Development of a Delta Mercury TMDL

In anticipation of the Central Valley Regional Water Quality Control Board's (Board) soon to be released Draft Basin Plan Amendment establishing a Total Maximum Daily Load (TMDL) standard for mercury in the Delta, the Delta Mercury TMDL Collaborative (Collaborative) facilitated by the Delta Protection Commission (Commission), consistent with the Delta Protection Act and the Land Use and Resource Management Plan for the Primary Zone of the Delta (Management Plan), is taking this opportunity to reiterate comments expressed in response to the August 2005 Board staff report.

As presented at the Board hearing on November 28, 2005, and in the November 18, 2005 letter (attached), the Collaborative was formed to provide Board staff with a coordinated Delta-wide perspective and input for the development of an "effective" TMDL program for the Delta region. Thus, the Collaborative will continue to review documentation, participate in public workshops, and provide constructive feedback to the Board and its staff throughout the TMDL development process. As noted in the previous comments, the Collaborative strongly encourages the development of the TMDL program and the timing of its implementation take into consideration the Management Plan and the anticipated beneficial outcomes of the various Delta visioning processes and activities currently underway.

For example, the August 2005 Regional Board staff report recommends a more than 70% reduction in average aqueous methylmercury levels from the Yolo Bypass and Mokelumne River subregions of the Delta, and a policy of "no net increase" in annual mercury loads from Delta wetland areas in general. As these areas have been priority sites in which the CALFED Bay-Delta Program has invested millions of dollars in State and federal ecosystem restoration funds over the past ten years, the proposed standard could effectively halt all habitat enhancement activities in these high-priority areas. Therefore, the Collaborative questions whether there is sufficient data to justify such a potential environmentally detrimental imposition.

Additionally, the staff report concedes that even if it could be shown that wetland habitat restoration causes a certain level of mercury load in the Delta that should be mitigated, no effective BMPs to achieve acceptable levels are known at this time. Since CALFED's Science Program has formally made the problem of methylmercury a priority, through the funding of various studies to gather needed data on the issue, the Collaborative suggests that it may be premature to impose a standard on these habitat areas until the studies underway begin yielding sufficient data for consideration by Board staff.

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As another example, dredging of Delta channels is a key component of regional levee maintenance, conveyance of drinking water, and floodwater management. The proposed extensive testing of sediments, and the possible requirement that sediments containing a certain level of mercury not be placed within the 100-year floodplain, could have significant implications for this important activity in the Delta. As a majority of the Delta lies within the 100-year floodplain, such materials would have to be transported out of the area, raising the cost of dredging so high as to be economically infeasible. If levee and channel maintenance cannot be attained through dredging due to the high cost of transport, the negative implications for the State's drinking water supply and flood control system potentially could be significant. As the process of dredging would involve the physical removal of possibly high levels of mercury-contaminated sediment out of the water where it would methylize and bioaccumulate in the biota, the Collaborative suggests that there are possible benefits to dredging in the Delta that should be further explored.

In review of the proposed TMDL, the Collaborative is taking into consideration how the proposed program could potentially impact activities and projects currently underway in the Delta region. Such activities and projects include: habitat-friendly levee protection and stabilization; reversal of land subsidence; State and local wildlife habitat enhancement such as Department of Fish and Game restoration activities and County Habitat Conservation Programs; dredging and dredge material reuse; invasive weed control; agricultural practices; and land- and water-based recreation activities. The Collaborative assumes that in addition to CEQA requirements, and in light of the potential benefits yielded by these other activities, the development of the TMDL will include cost/benefit comparisons, establishment of parameters for prioritization of mercury remediation actions, analysis of the "no net increase" policy, and development of recovery plan priorities.

The Collaborative appreciates your consideration of the comments provided herein, and looks forward to continuing to provide meaningful input to the Board for the development of an effective program to address the issue of mercury in the Delta.

Please contact me at (916) 776-2292 or lindadpc@citlink.net if you have any questions relative to the information provided.

Sincerely,

Linda Fiack, Executive Director
Delta Protection Commission
On behalf of the Delta Mercury TMDL Collaborative

Attachment

cc: Chair, Yolo County Board of Supervisors
Chair, Sacramento County Board of Supervisors
Chair, Contra Costa County Board of Supervisors
Chair, Solano County Board of Supervisors
Chair, San Joaquin County Board of Supervisors
Collaborative Participants

November 18, 2005

Robert Schneider, Chairman
California Regional Water Quality Control Board
Central Valley Region
11020 Sun Center Drive, No. 200
Rancho Cordova, California 95670

SUBJECT: Sacramento-San Joaquin Delta Mercury TMDL

Dear Chairman Schneider:

The Delta Protection Commission (DPC) has convened a collaborative of Delta stakeholders to provide input to your Board for consideration in the development of the subject TMDL for the Delta. It is the desire of the Collaborative to contribute to the Board's efforts to satisfy the mandates imposed by the U. S. Environmental Protection Agency while developing a meaningful and realistically feasible program.

The Collaborative will be reviewing documents produced by Board staff, participating in public workshops, and providing comments to the Board throughout the process. Thus, the opportunity is provided to initiate the participation of the Collaborative by providing the following general comments.

Land Use and Resource Management Plan for the Primary Zone of the Delta (Plan)

The Plan was prepared and adopted by the DPC pursuant to the Delta Protection Act (Act). The Plan provides Findings, Policies, and Recommendations in the areas of Environment, Utilities and Infrastructure, Land Use, Agriculture, Water, Recreation and Access, Levees, and Marine Patrol, Boater Education, and Safety Programs. The provisions of the Act require the inclusion of the Plan in local government General Plans covering the Delta. Development of the Delta Mercury TMDL should take into consideration the projects and activities provided for in the Plan as mandated by the Act.

Delta Visioning

There are currently several Delta visioning efforts underway that should be taken into consideration with respect to development of the TMDL and the timing of implementation. Visioning efforts include: DPC transition; State Parks and Recreation Central Valley Vision;

AB 1200 visioning - Department of Fish and Game/Department of Water Resources; CALFED 10-year plan; Yolo Basin Foundation/DPC Lower Bypass Collaborative; regional planning efforts of Sacramento Area Council of Governments, San Joaquin Council of Governments, Association of Bay Area Governments, and regional Blue Print processes; and local government general plan updates.

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Multiple Species HCP/NCCP

The Department of Fish and Game is currently facilitating a process for development of a multiple species HCP/NCCP for the Delta, and other local HCP/NCCP planning efforts are underway within the Delta watershed. Potential outcomes of these processes should be taken into consideration for consistency and compatibility with the development of a TMDL.

Prominent Delta Activities

Primary activities and projects in the Delta span the areas of agriculture, habitat, and recreation. The review of the Collaborative will be taking into consideration potential impacts of a TMDL on activities and projects that include: invasive weed removal; habitat friendly levee protection and stabilization; water supply; wetlands and waterfowl habitat enhancements; agricultural practices; private and public marina and boater recreation facilities and activities; dredging and dredge spoil re-use; and erosion control. Additionally, major water transfer projects being analyzed for proposal include the North and South Delta Improvement Programs.

In general, there is the expectation that the development of a TMDL will take into consideration cost/benefit comparisons, establishment of parameters for prioritization, a "no net increase" analysis, development of recovery plan priorities, and California Environmental Quality Act requirements.

The Collaborative intends to work closely with your staff and to initiate contact to participate in a meeting of the Collaborative in the near future. In the meantime, please contact me with any questions you may have at (916) 776-2292 or lindadpc@citlink.net.

Sincerely,

Linda Fiack, Executive Director
Delta Protection Commission
On behalf of the Delta Mercury Collaborative

cc: Delta Mercury Collaborative
Karen Scarborough, Undersecretary, Resources Agency
Delta Protection Commission